

February 2, 1993

JURISPRUDENCE — C.S.S.B. 17

NINTH DAY

(Wednesday, February 3, 1993)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

A quorum was announced present.

The Reverend John R. Pitts, St. Matthew's Episcopal Church, Austin, offered the invocation as follows:

This is the day the Lord has made. Help us, Lord, and each person in this Senate to recognize that this day belongs to You and You alone. Help those making decisions this day to recognize You as the ultimate decision maker. This is Your day, Lord—let us rejoice and be glad in it. Amen.

On motion of Senator Harris of Dallas and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

CO-AUTHOR OF SENATE BILL 72

On motion of Senator Bivins and by unanimous consent, Senator Wentworth will be shown as Co-author of S.B. 72.

CO-AUTHOR OF SENATE BILL 89

On motion of Senator Truan and by unanimous consent, Senator Lucio will be shown as Co-author of S.B. 89.

CO-AUTHOR OF SENATE BILL 90

On motion of Senator Truan and by unanimous consent, Senator Lucio will be shown as Co-author of S.B. 90.

CO-AUTHOR OF SENATE BILL 218

On motion of Senator Sibley and by unanimous consent, Senator Bivins will be shown as Co-author of S.B. 218.

CO-AUTHOR OF SENATE BILL 219

On motion of Senator Sibley and by unanimous consent, Senator Bivins will be shown as Co-author of S.B. 219.

CO-AUTHOR OF SENATE BILL 220

On motion of Senator Sibley and by unanimous consent, Senator Bivins will be shown as Co-author of S.B. 220.

MESSAGE FROM THE HOUSE

House Chamber
February 3, 1993

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 20, Paying tribute to the life of Henry Franklin Nease.

H.C.R. 36, Honoring Floyd and Irene Wagner.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution were introduced, read first time, and referred to the committees indicated:

S.R. 133 by Harris of Dallas Committee of the Whole Senate on
 Redistricting, Ethics and Elections

Designating the Lieutenant Governor to appoint a committee of five Senators to supervise and direct all matters relating to the preparation of slips and envelopes and the drawing of Senator's terms.

S.B. 240 by Whitmire Intergovernmental Relations
Relating to the number of consecutive years a person may serve on certain mass transit authority boards.

S.B. 241 by Harris of Dallas Finance
Relating to contributions to and benefits from the Judicial Retirement System of Texas Plan Two.

S.B. 242 by Ellis, Leedom, Harris of Dallas State Affairs
Relating to the transfer of Texas Turnpike Authority projects to a county or local government corporation and to the administration and financing of those projects.

S.B. 243 by Leedom, Nelson, Rosson Intergovernmental Relations
Relating to a fee to finance security services for buildings housing a district or county court.

S.B. 244 by Henderson State Affairs
Relating to the regulation of video lottery games; providing penalties.

S.B. 245 by Sibley, Brown, Committee of the Whole Senate on
Nelson, Ratliff, Shapiro, Redistricting, Ethics and Elections
Harris of Dallas, Harris of Tarrant, Sims, Lucio, Madla, Bivins, Patterson,
Leedom, Wentworth, Henderson, Shelley
Relating to apportionment of the state into senatorial districts.

S.B. 246 by Truan International Relations, Trade, and Technology
Relating to the conveyance of property from a county to Texas A&I
University Foundation, Inc.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred
to the Committee on Nominations:

Austin, Texas
February 3, 1993

**TO THE SENATE OF THE SEVENTY-THIRD LEGISLATURE,
REGULAR SESSION:**

I ask the advice, consent and confirmation of the Senate with respect
to the following appointment:

**TO BE JUSTICE OF THE COURT OF APPEALS, SECOND SUPREME
JUDICIAL DISTRICT, until the next general election and until his
successor shall be duly elected and qualified:**

SIDNEY C. FARRAR, JR.

3936 Thistle Lane

Fort Worth, Texas 76109

Judge Farrar will be replacing Justice John G. Hill, who was elevated to
the position of Chief Justice of the Second Court of Appeals.

Respectfully submitted,

/s/Ann W. Richards
Governor of Texas

APPOINTMENT OF STANDING SUBCOMMITTEE

The President announced the appointment of the following standing
subcommittee of the Senate of the 73rd Legislature:

**SUBCOMMITTEE ON ELECTIONS AND ETHICS OF THE
COMMITTEE OF THE WHOLE SENATE ON REDISTRICTING,
ETHICS AND ELECTIONS (Standing)**

Carriker, Chair; Harris of Dallas, Vice-chair; Ellis, Henderson, Luna,
Parker, Wentworth.

Pursuant to Senate Rule 11.03(b), the President directed that the named
subcommittee report directly to the Senate on any matter under its
jurisdiction.

(Senator Harris of Dallas in Chair)

SENATE RESOLUTION 137

Senator Montford offered the following resolution:

WHEREAS, Recognized as a young progressive community, Odessa is
a city with an eye on the future; and

WHEREAS, Located in the state's leading oil-producing county,
Odessa is considered the center for oil field operations and petro-chemical
production for the Permian Basin; and

WHEREAS, The City of Odessa is also a center for agricultural businesses in the region engaged in beef cattle, poultry, pecans, and hay operations; and

WHEREAS, Two exceptional institutions of higher learning are found within the city: The University of Texas of the Permian Basin, which has expanded its educational offerings to four-year programs in fields ranging from art to land management; and Odessa College, a community college which specializes in a variety of liberal arts and vocational-technical training; and

WHEREAS, Along with its vital energy, agricultural, business, medical and educational opportunities, this outstanding Permian Basin city is also a cultural, entertainment, and recreation center with: The Globe of the Great Southwest, a replica of Shakespeare's original Globe Theater; the Presidential Museum, dedicated to commemorating the office of the presidency and all the men who have served in this office; the Art Institute for the Permian Basin; the Permian Playhouse, ranked as one of the 10 best community theaters in the nation in 1991; and the Odessa Chuck Wagon Gang, which has promoted Odessa's unique hospitality and Texan cuisine since 1940; and

WHEREAS, The citizens of Odessa and the surrounding region are to be commended on such noteworthy annual events as the Shakespeare Festival, Renaissance Fair, and Permian Basin Fair and Expo; and

WHEREAS, This fine city also boasts the second largest meteor crater in the United States, located just west of the city; and

WHEREAS, Odessa is a dynamic, ambitious city, representative of the spirit of Texas, and it is appropriate that the Texas Senate recognize the citizens of that outstanding community for their numerous contributions and accomplishments; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 73rd Legislature, hereby designate February 3, 1993, as "Odessa Day" and welcome the Odessa delegation to the State Capitol; and, be it further

RESOLVED, That an official copy of this Resolution be prepared for the City of Odessa in recognition of this special occasion and as an expression of high regard from the Texas Senate.

The resolution was read and was adopted by a viva voce vote.

(President in Chair)

GUEST PRESENTED

The President introduced to the Senate Chris Semos, Dallas County Commissioner and former member of the Texas House of Representatives.

The Senate welcomed Commissioner Semos.

SENATE RESOLUTION 131

Senator Brown offered the following resolution:

S.R. 131, Applauding the members of the Houston Astros baseball team on their magnificent accomplishments and extending best wishes to the players, their coaches, and their fans for a most rewarding 1993 season.

The resolution was read and was adopted by a viva voce vote.

SENATE CONCURRENT RESOLUTION 16

Senator Barrientos offered the following resolution:

S.C.R. 16, Directing that the Office of Comptroller of Public Accounts conduct a statewide public awareness drive designed to inform working Texas families about the availability of the Earned Income Credit.

The resolution was read.

On motion of Senator Barrientos and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

SENATE BILL 192 REREFERRED

On motion of Senator Armbrister and by unanimous consent, **S.B. 192** was withdrawn from the Committee on Intergovernmental Relations and was rereferred to the Committee on Criminal Justice.

CAPITOL PHYSICIAN

Senator Wentworth was recognized and presented Dr. Lester Lang of San Antonio as the "Doctor for the Day."

The Senate welcomed Dr. Lang and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

SENATOR RECUSED

The following letter was read and was filed with the Secretary of the Senate:

January 22, 1993

Mrs. Betty King
Secretary of the Senate
Texas Senate
P.O. Box 12068
Austin, Texas 78711

Dear Mrs. King:

In accordance with Article III, Section 22 of the Texas Constitution (disclosure of private interest in measure or bill), I wish to file the following information with the Secretary of the Senate.

1. I typically receive in excess of one half of my gross income from the production of cotton.
2. The area in which I farm is profoundly effected by boll weevil infestation.
3. My economic interest in the control or eradication of the boll weevil is substantially greater than most members of the class of Texas cotton producers.

It is, therefore, my interpretation that I should recuse myself from voting on final passage of legislation currently pending in the Senate dealing with the subject of boll weevil eradication.

Sincerely,

Steven A. Carriker
State Senator

**COMMITTEE SUBSTITUTE
SENATE BILL 30 ON SECOND READING**

On motion of Senator Sims and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 30, Relating to providing for methods and procedures for the eradication of boll weevils and the reduction in use of toxic substances in the control of cotton insects; providing penalties. (Submitted by Governor as an emergency matter)

The bill was read second time.

(Senator Harris of Dallas in Chair)

(President in Chair)

Senator Barrientos offered the following amendment to the bill:

Amend C.S.S.B. 30, Section 74.101, Subsection (3) to read as follows:

(3) It is the intent of the legislature that the program is carried out with the best available integrated pest management techniques in a way that minimizes the use of pesticides and optimizes the use of non-toxic management techniques including cultural and biological controls.

Amend C.S.S.B. 30, Section 74.102, Subsection (10) to read as follows:

(10) Integrated Pest Management (IPM) is the coordinated use of pest and environmental information with available pest control methods to prevent unacceptable levels of pest damage by the most economical means, and with the least possible hazard to people, property and the environment. For the purposes of this program, IPM will be used in a way that minimizes the use of pesticides and optimizes the use of non-toxic management techniques including cultural and biological controls.

The amendment was read.

On motion of Senator Sims, the amendment was tabled by the following vote: Yeas 23, Nays 7, Present-not voting 1.

Yeas: Armbrister, Bivins, Brown, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Madla, Montford, Nelson, Parker, Patterson, Ratliff, Shapiro, Shelley, Sibley, Sims, Turner, Wentworth, West.

Nays: Barrientos, Luna, Moncrief, Rosson, Truan, Whitmire, Zaffirini.

Present-not voting: Carriker.

The bill was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Barrientos asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 30 ON THIRD READING

Senator Sims moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 30 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Bivins, Brown, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos.

Present-not voting: Carriker.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1, Present-not voting 1. (Same as previous roll call)

MEMORIAL RESOLUTIONS

S.R. 136 - By Montford: In memory of Charles Eugene Brown II of Lubbock.

S.R. 138 - By Brown: In memory of John Stricklin Bridges, Jr.

S.R. 139 - By Brown: In memory of John Turner "Jack" Greenberg of Lake Jackson and Brazoria.

CONGRATULATORY RESOLUTIONS

S.R. 132 - By Barrientos: Commending the Honorable Carl Bert Albert of Oklahoma for his inimitable career in public service and recognizing him as an Honorary Texan.

S.R. 134 - By Moncrief: Recognizing Barbara Holston, who was appointed Executive Director of the Fort Worth Housing Authority.

S.R. 135 - By Moncrief: Congratulating Sheila R. Martin and James Mathews of Azle on the occasion of their marriage.

S.R. 140 - By Sims: Congratulating Mr. and Mrs. Hubert Bell of Clyde on the occasion of their 60th wedding anniversary.

S.R. 141 - By Sims: Congratulating Mr. and Mrs. Billy G. Yarbrough of Abilene on the occasion of their 50th wedding anniversary.

S.R. 142 - By Sims: Congratulating Mr. and Mrs. James Alton Edwards of Albany on the occasion of their 50th wedding anniversary.

ADJOURNMENT

On motion of Senator Harris of Dallas, the Senate at 11:47 a.m. adjourned, in memory of Henry Franklin Nease of Abilene and Juan Prieto of Corpus Christi, until 10:00 a.m. tomorrow.

APPENDIX

REPORTS OF STANDING COMMITTEES

The following committee reports were received by the Secretary of the Senate:

February 2, 1993

ECONOMIC DEVELOPMENT — C.S.S.B. 130

February 3, 1993

ECONOMIC DEVELOPMENT — S.B. 195

STATE AFFAIRS — S.B. 129, S.B. 111, S.B. 127 (Amended), S.B. 113 (Amended), S.B. 49

ADMINISTRATION — S.C.R. 2, C.S.S.C.R. 3

INTERGOVERNMENTAL RELATIONS — S.B. 146 (Amended), S.B. 170 (Amended)

**In Memory
of
Henry Franklin Nease**

Senator Sims offered the following resolution:

(House Concurrent Resolution 20)

WHEREAS, The death of Henry Franklin Nease at the age of 67 on December 13, 1992, has brought great sadness to the many friends and relatives of this retired educator and esteemed citizen of Abilene; and

WHEREAS, Born November 19, 1925, near Lawton, Oklahoma, Mr. Nease earned his bachelor's degree from Midwestern State University in Wichita Falls and his master's degree from McMurry University in Abilene; as a young man, he served his country with great distinction in the United States Air Force in the Korean conflict; and

WHEREAS, After completing his tour of duty, he married Shirley Waterstreet on June 12, 1954, and the happy couple embarked on a long and rewarding life together, moving to Abilene in 1957 where they settled and raised their six children; and

WHEREAS, An accomplished classroom instructor, Mr. Nease taught in the West Texas towns of Pecos and Robert Lee before joining the Abilene Independent School District where he enjoyed a highly successful and well-regarded 21-year tenure; and

WHEREAS, Mr. Nease remained active in his retirement, championing the rights of retired citizens as a member and past president of the Abilene Chapter of the American Association of Retired Persons and as a member of the Abilene Retired Teachers Association; and

WHEREAS, From 1990 to 1992, Mr. Nease served this important portion of the population as a representative of West Central Texas in the Third Texas Silver-Haired Legislature, an organization that studies issues of special concern to older Texans as well as of general concern to all our state's citizens; and

WHEREAS, A man of deep religious conviction, Mr. Nease belonged to the First United Methodist Church and was a cherished member of the Harvester's Sunday School Class; and

WHEREAS, Mr. Nease also was endowed with a great love for the outdoors and enjoyed spending free time fishing, gardening, farming, and relaxing with his family; and

WHEREAS, A man of rare dedication and vision, Henry Franklin Nease made significant contributions to more than two decades of educational progress in West Texas and provided a strong voice for the older citizens of his community; though his strength and good sense will be sorely missed, his memory will continue to serve as an

inspiration to all those privileged to have known him; now, therefore, be it

RESOLVED, That the 73rd Legislature of the State of Texas hereby pay tribute to the life of Henry Franklin Nease and extend sympathy to the members of his family: to his beloved wife, Shirley; to his sister, Pauline Bruns of Lawton, Oklahoma; to his brothers, Leo Nease of Lawton, Oklahoma, and Felton Nease of Durham, North Carolina; to his daughter, Nancy Fisher and her husband Walter of Austin; to his daughter, Nora Nease of Austin; to his son, Neil Nease and his wife Linda of Berlin, Germany; to his son, Noel Nease of Denver, Colorado; to his son, Nathan Nease and his wife Belinda of Abilene; to his son, Nelson Nease of Austin; to his sister-in-law, Delana Nease of Lawton, Oklahoma; to his brothers-in-law, Joe McCune of Fletcher, Oklahoma, and David H. Waterstreet of Clyde; to his two grandchildren and 19 nieces and nephews; and to the other members of his family; and, be it further

RESOLVED, That an official copy of this resolution be prepared for the members of his family and that when the House of Representatives and Senate adjourn this day, they do so in memory of Henry Franklin Nease.

The resolution was read.

On motion of Senator Harris of Dallas and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Sims and by unanimous consent, the resolution was considered immediately and was adopted by a rising vote of the Senate.